

# HOUSE . . . . . No. 1104

By Ms. Jehlen of Somerville, petition of Patricia D. Jehlen and others relative to the education of children who are deaf or hard of hearing. Education.

## The Commonwealth of Massachusetts

### PETITION OF:

Patricia D. Jehlen	Barbara A. L'Italien
Anne M. Paulsen	Kay Khan
Ellen Story	Elizabeth A. Malia
Benjamin Swan	John W. Scibak

In the Year Two Thousand and Five.

### AN ACT ESTABLISHING A BILL OF RIGHTS FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 6 of the General Laws is hereby amended
- 2 by inserting after section 198 the following section:—
- 3 Section 198A. The commission shall certify the sign language
- 4 or oral/aural communication proficiency of professionals and
- 5 para-professionals who are providing direct or related services
- 6 pursuant to an individualized education plan to deaf and hard of
- 7 hearing pupils in the school. For the purposes of this section, such
- 8 direct and indirect service providers shall include teachers of the
- 9 deaf, speech therapists, counselors, interpreters, teaching associ-
- 10 ates and others as appropriate.
- 11 The department of education shall acknowledge the commis-
- 12 sion certification awards or acceptance by the commission of
- 13 other certifying entities as meeting communication proficiency
- 14 standards within its certification process for said educational per-
- 15 sonnel.
- 16 No person shall be employed by a school district in any of the
- 17 positions enumerated herein who has not been certified, but the

18 department may issue a temporary certification effective for up to  
19 three years-to an applicant seeking certification under the provi-  
20 sions of this section, provided that the applicant is pursuing an  
21 educational program to attain competence in communication.

1 SECTION 2. Section 1B of chapter 69 of the General Laws, as  
2 appearing in the 1998 Official Edition, is hereby amended by  
3 inserting after the 22nd paragraph the following paragraph:—

4 The board shall provide information to schools, through referral  
5 by the commission for the deaf and hard of hearing children's  
6 services specialists or other appropriate persons concerning edu-  
7 cational, medical, cultural and linguistic issues of deafness and  
8 hearing loss to meet the individual educational needs of deaf and  
9 hard of hearing children.

1 SECTION 3. Section 38G of chapter 71 of the General Laws,  
2 as so appearing, is hereby amended by inserting after the 20th  
3 paragraph the following two paragraphs:—

4 Competence in sign language or oral/aural communication shall  
5 be a requirement for initial certification as a teacher of students  
6 who are deaf or hard of hearing. Such competence shall be veri-  
7 fied through a communication proficiency assessment certification  
8 process determined by the commission for the deaf and hard of  
9 hearing.

10 Competence in interpreting shall be a requirement for initial  
11 certification by the department for educational interpreters. Such  
12 competence shall be determined by the commission for the deaf  
13 and hard of hearing.

1 SECTION 4. Chapter 71B of the General Laws is hereby  
2 amended by inserting after section 3A the following section:—

3 Section 3B. As used in this section, the following terms shall  
4 have the following meanings:

5 “American sign language”, the visual/gestural language used by  
6 deaf people in the United States and Canada, with semantic, syn-  
7 tactic, morphological, and phonological rules which are distinct  
8 from English;

9 “Deaf student”, an individual who has a severe or complete  
10 absence of auditory sensitivity which adversely affects educa-

11 tional performance and which is so severe that the student is  
12 impaired in processing linguistic information through hearing,  
13 with or without amplification;

14 “English sign systems”, sign systems developed for educational  
15 purposes, which use manual signs in English word order; some-  
16 times with added affixes which are not present in American sign  
17 language;

18 “Hard of hearing student”, an individual who has some absence  
19 of auditory sensitivity with residual hearing, whether permanent  
20 or fluctuating, which adversely affects a child's educational per-  
21 formance but which is not included under the definition of “deaf  
22 student” in this section;

23 “Individualized education plan (IEP)”, a written educational  
24 plan developed for a student eligible for special education services  
25 pursuant to the Code of Massachusetts regulations and the federal  
26 Individual with Disabilities Education Act, 20 U.S.C. § 1400 et  
27 seq;

28 “Primary communication mode, style, and language”, the com-  
29 munication mode, style, and language which is preferred by and  
30 most effective for a particular student, as determined by appro-  
31 priate language assessment undertaken by individuals proficient in  
32 the communication mode, style, or languages being assessed.  
33 Communication mode may include one or more of the following  
34 systems or methods of communication applicable to deaf or hard  
35 of hearing children:

36 (a) American Sign Language;

37 (b) English-based manual or sign systems; or

38 (c) Oral, aural, or speech-based training.

39 Children who are deaf or hard of hearing are entitled to appro-  
40 priate screening and assessment of hearing and vision capabilities  
41 and language and communication needs at the earliest possible  
42 age and to the continuation of intermittent screening services  
43 throughout their educational experience.

44 Children who are deaf or hard of hearing are entitled to early  
45 intervention to provide for acquisition of a solid language base(s)  
46 developed at the earliest possible age.

47 Children who are deaf or hard of hearing are entitled to have an  
48 education in which their parents'/guardians' full informed partici-  
49 pation in determining the extent, content, and purpose of all their  
50 educational planning and programs.

51 Children who are deaf and hard of hearing are entitled to have  
52 an education in which teachers of the deaf and hard of hearing,  
53 counselors, psychologists, speech therapists, diagnostic personnel,  
54 administrators, and other special education personnel understand  
55 the unique nature of deafness and are specifically trained to work  
56 with deaf and hard of hearing students.

57 Children who are deaf or hard of hearing are entitled to quali-  
58 fied teachers, teacher aides, interpreters of the deaf and hard of  
59 hearing who have a background in deafness, have demonstrated  
60 proficiency in the preferred language mode of those children and  
61 are qualified based on standards as set forth by the Massachusetts  
62 commission for the deaf and hard of hearing.

63 Children who are deaf or hard of hearing are entitled to contact  
64 with and to be exposed to adult role models who are deaf or hard  
65 of hearing in their educational programs.

66 Children who are deaf or hard of hearing are entitled to receive  
67 an education with a sufficient number of language mode peers  
68 with whom they can communicate directly and who are of the  
69 same, or approximately the same, age and ability level.

70 Deaf and hard of hearing children are entitled to have programs  
71 in which they have direct and appropriate access to all compo-  
72 nents of programs services of the educational process, including,  
73 but not limited to, extracurricular social and athletic activities.

74 Children who are deaf or hard of hearing are entitled to place-  
75 ment best suited to their individual needs, including, but not lim-  
76 ited to age, hearing loss, academic level, mode(s) of  
77 communications, style of learning, motivational levels and family  
78 support.

79 Children who are deaf or hard of hearing are entitled to benefit  
80 from the development and implementation of state and regional  
81 programs for children with low incidence disabilities.

82 Children who are deaf or hard of hearing are entitled to up-to-  
83 date technological devices and equipment, acoustic enhancements  
84 such as carpeting in the classroom, assistive listening devices used  
85 alone or in conjunction with a hearing aid such as audio loop and  
86 FM systems, visual technological support to the classroom and  
87 school building.

88 Children who are deaf or hard of hearing are entitled to have  
89 the public fully informed concerning medical, cultural, and lin-  
90 guistic issues of deafness and hearing loss.

91 Each deaf or hard of hearing student shall have a determination  
92 of the least restrictive environment that takes into consideration  
93 these legislative findings and declarations.

1 SECTION 5. A person who is certified as a teacher of students  
2 who are deaf or hard of hearing shall demonstrate continued com-  
3 petency in sign language or oral/aural communication for instruc-  
4 tion as a condition of renewal of certification in accordance with  
5 the provisions of section 38G of chapter 71 of the General Laws.

1 SECTION 6. The assessment for communication proficiency in  
2 sign language and oral/aural communication accepted by the  
3 department of education for certification of teachers of deaf or  
4 hard of hearing students shall be determined or developed by the  
5 commission for the deaf and hard of hearing.

6 The assessment for interpreting proficiency in sign language or  
7 oral/aural communication accepted by the department of educa-  
8 tion for certification of educational interpreters of deaf or hard of  
9 hearing students shall be determined or developed by the commis-  
10 sion for the deaf and hard of hearing.

1 SECTION 7. There is hereby established an advisory council  
2 on the education of children who are deaf or hard of hearing con-  
3 sisting of 14 members to be appointed by the board of education  
4 in consultation with the commission for the deaf and hard of  
5 hearing, one of whom shall have professional experience in using  
6 assistive technology; two of whom shall be educators of deaf or  
7 hard of hearing students, one of whom shall be a regular and  
8 effective user of American Sign language and one of whom shall  
9 be a regular and effective user of oral/aural or speech based Eng-  
10 lish; two parents of deaf or hard of hearing students, one of whom  
11 is a regular and effective user of American sign language and one  
12 of whom is a regular and effective user of oral/aural or speech  
13 based English; two representatives of the deaf and hard of hearing  
14 community, one of whom is a user of American sign language and  
15 one of whom is a user of oral/aural or speech based English; two  
16 administrators of college or university teacher training programs,  
17 one of whom shall use American Sign language and one of whom  
18 shall use oral/aural or speech based English; an administrator of a

19 college or university program in interpreter training; two adminis-  
20 trators of programs or schools for deaf or hard of hearing students,  
21 one of whom shall be an administrator of a program which uses  
22 American Sign language, and one of whom shall be the adminis-  
23 trator of a program which uses oral/aural or speech based English;  
24 one shall be a representative of the Massachusetts Registry of  
25 Interpreters for the deaf; and one shall be a representative of the  
26 commission for the deaf and hard of hearing.

27 The council shall file a report with the clerk of the house of  
28 representatives who shall forward the same to the joint committee  
29 on education on the first Wednesday in July, of each year com-  
30 mencing with July 5, 2000. Said report shall include, but not be  
31 limited to the following: the number of teachers certified pursuant  
32 to section 38G of chapter 71 of the General Laws, the number of  
33 deaf and hard of hearing students accepting such instructions; the  
34 percentage and type of assistive technology and other educational  
35 materials available, and such recommendations as it may make to  
36 improve the amount and variety of such materials; and findings  
37 and recommendations concerning the employment conditions of  
38 teachers of students who are deaf or hard of hearing.